REMARKS

Reconsideration is respectfully requested.

Entry of the above amendments is courteously requested in order to place all claims in this application in allowable condition and/or to place the non-allowed claims in better condition for consideration on appeal.

Claims 1 through 14 and 17 through 19 remain in this application. Claims 15 and 16 have previously been cancelled. No claims have been withdrawn or added by this response.

The Examiner's rejections will be considered in the order of their occurrence in the Office Action.

Paragraph 10 of the Office Action

Claim 1 has been objected to for the informalities noted in the Office Action.

Claim 1 has been amended to include the full definition of "HAVi" at its first occurrence in the claim. Also, independent claim 13 includes the "HAVi" abbreviation, and therefore has been amended in a manner similar to claim 1.

Withdrawal of the objection to claim 1 is therefore respectfully requested.

Paragraphs 11 through 13 of the Office Action

Claims 1 through 14 and 17 through 19 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Lea, International Publication Number WO 99-35753 (hereinafter referred to simply as "Lea") in view of Ludtke, U.S. Patent No. 6,237,049 (hereinafter "Ludtke"), in

further in view of Van Der Meulen et al, International Publication Number WO 99-4969 (hereinafter "Van Der Meulen").

Claim 1 requires "wherein the HAVi compatible device comprises a disk player not having built in ability for presenting content information for a disk inserted into the disk player, and wherein the control data is for *presenting content information about content* on the disk to the user". Additionally, claim 9 requires "wherein the control data comprises content information retrieved from the remote server about content stored on a medium located on the first usable device, the extended functionality comprising a capability of the first usable device to present the content information on the first usable device". Further, claim 13 requires "wherein the HAVi compatible device comprises a compact disk player not having built in ability for presenting artist and song information for a compact disk inserted into the compact disk player, and wherein the control data is for presenting artist and song information for the compact disk to the user".

It is stated in the final Office Action, in reply to the Remarks in the previous Amendment responsive to the first Office Action in this case, that:

> The examiner is at a loss because the examiner only relied upon Lea in view of Ludtke to display the desirability of increasing the original capabilities of legacy devices (Office Action 12/4/03, p. 15, ¶4-p. 16, ¶2). Rather, the examiner applies Lea in view of Ludtke, and further in view of Van Der Meulen to disclose the capability to present information about content, such as artist and song information (Office Action 12/4/03. p. 16, ¶3-p. 17, ¶1), in which Van Der Meulen discloses, at p. 6 line 52-p.7 line 4, the ability to obtain detailed content information about each CD, such as the title and the performer of each selection on the CD.

and:

> Again. the examiner is at a loss because the examiner has not relied upon the Ludtke patent to suggest that the "increased functionality" aspect of the Ludtke patent necessarily leads one to, the provision of "artist and song information", but rather that Van Der Meulen discloses, at p. 6 line 52 - p.71 line 4, the ability to obtain

> detailed content information about each CD, such as the title and performer of each selection on the CD, (Office Action 12/4/03, p. 16, ¶3-p, 17, ¶1).

However, for the reasons set forth below, it is believed that consideration of the *entirety* of the disclosures of the Lea and Ludtke documents leads one of ordinary skill in the art to understand that the "expanded" and "increased" functionality described in these documents (and relied upon in the rejection of the Office Action) is directed to exercising expanded and increased *control* over legacy devices, and not to any expanded and increased ability to *present content information* by legacy devices. Although the Examiner has insisted that the rejection does not rest upon the Lea or Ludtke documents teaching or suggesting that the expended or increased functionality of these systems includes the access to additional content information as set forth in claim 1, one cannot simply choose to ignore what these documents actually teach the nature of the expanded or increased functionality to be. Moreover, one of ordinary skill in the art, considering these documents at the time of the invention, did not have the luxury of selectively taking into account only the most generalized statements in the documents about "the desirability of increasing the original capabilities of legacy devices", while ignoring the other more particularized portions of those documents that explain what was actually intended by that language.

The Federal Circuit, as quoted in Section 2141.02 of the Manual of Patent Examining Procedure (MPEP), has indicated that:

> A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)

It is therefore deemed to be significant that the "expanded" or "increased" functionality that is actually described in the Lea and Ludtke documents is directed to *control* functionality and not to any extended

content functionality, and thus does not suggest the desirability of enhanced content information for a legacy device to one of ordinary skill in the art.

Contrary to what appears to be relied upon in the Office Action, one cannot take generalized language from the "Summary of the Invention" portions of these documents and use that generalized language as a springboard to incorporate any additional functionality without considering the meaning to one of ordinary skill in the art of the actual implementation in the document. This is especially true when that particular additional functionality is attempted to be implemented as a function that is foreign to the functionality that is actually disclosed in the documents being relied upon.

In particular, with regard to the statement in the Office Action that "the examiner only relied upon Lea in view of Ludtke to display the desirability of increasing the original capabilities of legacy devices", it is significant to note that, if one goes beyond the snippets of the Lea document quoted in the Office Action, one finds that the "expanded functionality" that is being discussed in the Lea document is directed specifically to *expanded control functionality*, and not to *expanded access to content information*. For example, the Office Action references the Lea document at page 4, lines 3 through 5 to find the "expanded functionality" language. However, the sentence following the portion of Lea relied upon in the Office Action clarifies to one of ordinary skill in the art what is meant by "expanded functionality". Lea states, at page 4, lines 5 through 7, that (emphasis added):

> Specifically, the present invention offers a method and system for allowing devices of a home audio/video network <u>to be controlled</u> by one or more downloaded application programs originating from a service provider.

Further on in the discussion in the Lea document, it is stated that legacy devices, or devices that do not provide some aspect of HAVi functionality,

are essentially limited under the Lea system to operating with rudimentary control protocols for the device. See, for example, Lea at page 20, line 19 through page 21, line 2 (emphasis added):

> As described above, Legacy devices are devices that were built before the HAVI architecture or devices that select not to use HAVI. HAVI supports Legacy devices by providing Legacy DCMs to provide protocol conversions for Legacy devices. These Legacy DCMs can contain sufficient knowledge to allow them to support an existing 1 or 2 way control protocol and provide a specific control interface to the devices that conform to HAVI. A legacy DCM acts as a bridge between the Legacy and HAVI devices. This approach allows HAVI also to interact with any future device control protocols such as protocols being used for home energy management or security.

Additional portions of the Lea document include statements that also lead one of ordinary skill in the art to understand that the expended functionality contemplated by Lea for legacy devices is limited to various expanded control scenarios[1], and not for the purpose of providing access to extended content information by the legacy device.

Thus, as one of ordinary skill in the art could appreciate from the discussion in the Lea document, the "expanded functionality" which it

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[1] See. e.g., Lea at page 13, lines 10 through 15:

> In accordance with the present invention, there are two classes of legacy appliances. A first class includes "one-way" or unacknowledged control appliances. A second class includes controllable "two-way' appliances. Examples of one-way appliances are audio/video components controlled by infrared commands of a hand held remote. Two-way appliances provide confirmation of command execution, status and error reporting. Examples of two-way appliances include the recent introduction of well known IEEE 1394 enabled digital cameras.

and at page 17, lines 19 through 22:

> Base nodes are nodes that are neither FAV or IAV nodes. These are two generic types. Legacy base nodes, and other base nodes. Legacy base nodes are devices that were built before the advent of the HAVI architecture. These devices often use proprietary protocols for their control, and quite frequently have a simple, well defined, control only protocol.

and at page 18, lines 6 through 7:

> With the exception of legacy nodes, each node has, as a minimum, enough functionality to allow it to communicate with other nodes in the system.

and at page 48, lines 6 through 7:

> In the case of adding a legacy device, in the present embodiment, a legacy device can only be directly controlled by an FAV node.

advocates, particularly for legacy devices, is directed to the exertion of *additional control* over these devices, and not the provision of any *additional content information* about content on a content source (e.g., a disk) located in a device (e.g., a disk player).

Turning to the Ludtke patent, it is also clear from a closer look at the complete teaching of the Ludtke patent that the "new" or "increased functionality" referred to in the patent is directed to increased control over the devices that are "non-HAVi". More particularly, the Ludtke patent sets forth in greater detail what is intended by "increased functionality" in several portions of the Ludtke patent. For example, in the "Disclosure of the Invention" portion of the patent, it is stated at col. 3, lines 6 through 29, that (emphasis added):

> The present invention includes a method and system for defining and discovering proxy functionality on a distributed audio video network. The present invention operates within a network of consumer electronic media devices, e.g., television (TV), set-top-box, digital video disc (DVD) player, video cassette recorder (VCR), compact disc (CD) device, personal computer system (PC), video camera, etc., that are coupled together using a common communication bus, e.g., the IEEE 1394 serial communication standard. Specifically, the present invention enables a consumer electronic media device having increased functionality to act as a proxy device for other consumer electronic media devices. As such, the proxy device is able to provide a wide variety of advantageous proxy services for other consumer electronic media devices.
>
> For instance, the proxy device can act as a translator between two devices having incompatible protocols thereby enabling them to communicate together. Additionally, the proxy device can enable Home Audio Video Interoperability (HAVi) devices to have greater control over non-HAVi devices. The proxy device can extend the existing functionality of devices as well as provide new functionality for them. Furthermore, the proxy device can act as a command arbitrator for particular devices.

In fact, the only "increased functionality" that the Ludtke patent discusses for a CD player is the ability to determine the configuration of another

consumer electronics device. See, e.g., the Ludtke patent at col. 10, lines 53 through 57:

> Furthermore, data structure 320 allows a consumer electronic media device (e.g., CD player 20) of network 5 to search the configuration ROM 302 of another consumer electronic media device (e.g., VCR 12) for its contents.

The Ludtke patent thus generally describes "increased functionality" for a non-HAVi device as being able to act as a proxy for another device, and providing some measure of control over the device as a proxy. More specifically, Ludtke describes, in the context of a CD player, only the added ability to examine the ROM of another device, such as a VCR, for addressing information about the device,[2] which is a function that determines a relatively constant characteristic of the consumer electronics device that is stored on the device itself (e.g., the addressing information in ROM 302). (In contrast, the claimed invention is directed to a functionality that determines "artist and song information" of a disk in the player that will change as the disk is replaced with another disk in the player.)

It is therefore submitted that rather than suggesting any increased functionality regarding the nature or contents of the media being played in a CD player, the Ludtke patent would lead one of ordinary skill in the art to believe that "increased functionality" is directed to providing increased control for the legacy device, particularly a CD player.

It appears that in the Office Action, the Patent Office is taking the position that one of ordinary skill in the art, considering the Lea patent in

[2] Note that at col. 10, lines 20 through 33, Ludtke states that the contents of the configuration ROM 302 relate to the addressing of the device:

> It should be appreciated that configuration ROM 302 of the present invention is defined by the IEEE 1212 specification, which is well known by those of ordinary skill in the art and is the foundation technology of the IEEE 1394 serial bus specification. One embodiment of configuration ROM 302 is a 64 bit memory space that is divided into two different subsections. One subsection contains the upper 16 bits of address space that are used for storing the identification (ID) of a node, which includes its physical identification (phyID) 304. The other subsection within configuration ROM 302 contains the remaining 48 bits of address space that are used for storing other configuration ROM data structures 306 pertaining to the specific node, e.g., its Global Unique Identification (GUID) value.

view of the Ludtke publication, would limit that consideration to only those portions of the Lea and Ludtke publications that discuss "expanded" or "increased functionality" of a device, without considering the rest of the Lea and Ludtke disclosures and what they teach one of ordinary skill in the art about the expanded/increased functionality. However, one of ordinary skill in the art at the time that the invention was made does not have the benefit of such selective hindsight to consider only some selected portions of the Lea and Ludtke publications while ignoring the thrust of the remaining portions of those publications. A publication must be considered as a whole, even if the Patent Office is only relying upon one aspect of the discussion in the publication, especially if the remaining portions would suggest something to one of ordinary skill in the art other than what the Patent Office is intending it to lead one of ordinary skill in the art to. Again, one of ordinary skill in the art does not have the benefit of such selective consideration of portions of a teaching, and thus the Patent Office cannot limit a teaching to only one aspect of the teaching while turning a blind eye to the actual implementation in the teaching.

Turning to the Van Der Meulen document, and in contrast to the Lea and Ludtke systems described in the respective documents, Van Der Meulen lacks any mention of the value or desirability of its "virtual jukebox" system to devices having HAVi functionality or legacy devices in a HAVi device environment. Nor does the Van Der Meulen document indicate to one of ordinary skill in the art that its functionality could be substituted for expanded or increased control functionality in HAVi devices, or that its provision of access to additional information for a CD is equivalent to the provision of expanded or increased control over the operation of a device. Thus, there is nothing in the Van Der Meulen document to suggest the desirability of the incorporation of its CD information access feature into HAVi legacy devices such as are described in the Lea and Ludtke documents.

It is therefore submitted that there is no suggestion in the prior art to integrate the CD information access feature of the Van Der Meulen system into the enhanced HAVi legacy device systems of the Lea and Ludtke documents, and could not fairly lead one of ordinary skill in the art to the requirements of claims 1, 9, and 13 set forth above.

Withdrawal of the §103(a) rejection of claims 1 through 14 and 17 through 19 is therefore respectfully requested.

CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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By _____ Date: JUNE 22, 2004

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